

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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BOARD OF TRUSTEES OF THE UFCW
LOCAL 342 PENSION FUND,

Plaintiff,

-against-

ORDER

11 CV 4310 (DRH) (AKT)

MERRICK ASSOCIATED MARKET, INC.

Defendant.

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HURLEY, Senior District Judge:

On February 27, 2012, this Court granted plaintiff's motion for an entry of default judgment against defendant Merrick Associated Market, Inc., and referred the case to Magistrate Judge A. Kathleen Tomlinson, pursuant to 28 U.S.C. § 636(b)(3), for a report and recommendation as to damages and attorneys' fees. On August 21, 2012, Judge Tomlinson issued a Report and Recommendation recommending that judgment be entered against defendant for the following amounts: (1) \$104,028.00 in withdrawal liability, (2) interest in the amount of \$8,677.70 for the period running from August 1, 2009 through February 24, 2012, plus additional interest running from February 25, 2012 through the date of judgment, which is to be calculated at the rate specified in 29 C.F.R. § 4219.32, (3) \$2,310.00 in attorneys' fees, and (2) \$394.50 in costs. On August 27, 2012, defendant was served with a copy of the Report and Recommendation. More than fourteen days have elapsed since service of the Report and Recommendation. No party has filed any objections.

Pursuant to 28 U.S.C. § 636(b) and Federal Rule of Civil Procedure 72, this Court has reviewed the Report and Recommendation for clear error, and finding none, now concurs in both its reasoning and its result. Accordingly, the Court adopts the August 21, 2012 Report and

Recommendation of Judge Tomlinson as if set forth herein.

The Court hereby directs that plaintiff recover from defendant Merrick Associated Market, Inc., the following amounts as itemized below, and that judgment be entered accordingly:

(1) \$104,028.00 in withdrawal liability,

(2) \$8,677.70 in interest for the period between August 1, 2009 and February 24, 2012, plus additional interest accrued during the period between February 25, 2012 through the date of entry of judgment, which is to be calculated at the rate specified in 29 C.F.R. § 4219.32,

(3) \$2,310.00 in attorneys' fees, and

(2) \$394.50 in costs.

Upon entry of judgment, the Clerk of the Court is directed to close this case.

SO ORDERED.

Dated: Central Islip, New York
September 13, 2012

/s/

Denis R. Hurley
United States District Judge